

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION**

PFIZER INC., PFIZER LIMITED, and  
PFIZER IRELAND PHARMACEUTICALS,

Plaintiffs,

v.

TEVA PHARMACEUTICALS USA, INC.

Defendant.

Civil Action No. 2:10 cv 128 RBS/FBS

**PLAINTIFFS' ANSWER TO DEFENDANT'S COUNTERCLAIM**

Plaintiffs Pfizer Inc., Pfizer Limited, and Pfizer Ireland Pharmaceuticals (collectively "Pfizer"), by and through their undersigned attorneys, hereby answer the Counterclaim of Defendant Teva Pharmaceuticals USA, Inc. (hereinafter "Teva"), responding to the numbered allegations of the Counterclaim as follows:

1. In response to paragraph 1 of the Counterclaim, Pfizer reaffirms the allegations set forth in the Complaint.
2. Pfizer denies the allegations contained in paragraph 2 of the Counterclaim, except admits that Teva asserts that the Counterclaim is an action for a judgment declaring both that the claims of the '012 patent are invalid and that Teva has not infringed and will not infringe any claim of the '012 patent either directly or indirectly. Pfizer also admits that the '012 patent is attached as Exhibit A to the Complaint.
3. Upon information and belief, Pfizer admits the allegations contained in paragraph 3 of the Counterclaim.

4. Pfizer admits the allegations contained in paragraph 4 of the Counterclaim.
5. Pfizer admits the allegations contained in paragraph 5 of the Counterclaim.
6. Pfizer admits the allegations contained in paragraph 6 of the Counterclaim.
7. Pfizer denies the allegations contained in paragraph 7 of the Counterclaim, except admits that Teva purportedly asserts the Counterclaim under the Declaratory Judgment Act, 28 U.S.C. §§ 2201(a) and 2202, and the Patent Law of the United States, 35 U.S.C. § 1, *et seq.* To the extent that paragraph 7 of the Counterclaim sets forth legal conclusions, no response is required.
8. Paragraph 8 of the Counterclaim sets forth legal conclusions to which no response is required.
9. Paragraph 9 of the Counterclaim sets forth legal conclusions to which no response is required.
10. Paragraph 10 of the Counterclaim sets forth legal conclusions to which no response is required.
11. Pfizer denies the allegations contained in paragraph 11 of the Counterclaim, except admits that an actual case or controversy exists between Teva and Pfizer regarding the validity and infringement of claims 25 and 26 the '012 patent, the only claims which Pfizer seeks to enforce as being infringed by Teva's importing, using, selling, or offering for sale in the United States the ANDA Products upon expiration of the '534 patent on March 27, 2012.
12. Pfizer admits the allegations contained in paragraph 12 of the Counterclaim.
13. Pfizer denies the allegations contained in paragraph 13 of the Counterclaim.

14. Pfizer denies the allegations contained in paragraph 14 of the Counterclaim.

**Affirmative Defense**

15. The Counterclaim fails to state a claim upon which relief can be granted.

WHEREFORE, Plaintiffs Pfizer Inc., Pfizer Limited, and Pfizer Ireland  
Pharmaceuticals request that the Court grant the following relief:

1. That the Court enter judgment herein in favor of Pfizer;
2. That the court dismiss the Counterclaim filed by Teva, with prejudice;
3. That all costs of this action be assessed against Teva;
4. That Pfizer be awarded attorneys' fees; and,
5. That the Court grant Pfizer all other relief to which it is entitled.

DATED: May 20, 2010

PFIZER INC., PFIZER LIMITED and PFIZER  
IRELAND PHARMACEUTICALS

By: /s/ \_\_\_\_\_  
Brett A. Spain  
VSB No. 44567  
Conrad M. Shumadine  
VSB No. 04325  
*Attorneys for Pfizer Inc., Pfizer Limited  
and Pfizer Ireland Pharmaceuticals*  
Willcox & Savage, P.C.  
One Commercial Place  
Norfolk, VA 23510-2197  
Tel: (757)628-5534  
Fax: (757)628-5566  
Email: bspain@wilsav.com

OF COUNSEL:

Aaron Stiefel  
Daniel DiNapoli  
Soumitra Deka  
Marc Zubick  
KAYE SCHOLER LLP  
425 Park Avenue  
New York, NY 10022-3598  
Tel: (212)836-8000  
Fax: (212)836-8689

Coke Morgan Stewart (Va. Bar. No. 41933)  
R. William Sigler (Va. Bar No. 65940)  
KAYE SCHOLER LLP  
The McPherson Building  
901 Fifteenth Street, N.W.  
Washington, DC 20005  
Tel: (202) 682-3500  
Fax: (202) 682-3580  
Email: coke.stewart@kayescholer.com  
Email: bill.sigler@kayescholer.com

**CERTIFICATE OF SERVICE**

I hereby certify that on May 20, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

**Kevin James Culligan**

Goodwin Procter LLP (NY-NA)  
The New York Times Building  
620 Eighth Ave  
New York, NY 10018-1405  
(212) 813-8800  
(212) 355-3333 (fax)  
kculligan@goodwinprocter.com

**John Paul Hanish**

Goodwin Procter LLP (NY-NA)  
The New York Times Building  
620 Eighth Ave  
New York, NY 10018-1405  
(212) 813-8800  
(212) 355-3333 (fax)  
jhanish@goodwinprocter.com

**David Hashmall**

Goodwin Procter LLP (NY-NA)  
The New York Times Building  
620 Eighth Ave  
New York, NY 10018-1405  
(212) 813-8800  
(212) 355-3333 (fax)  
dhashmall@goodwinprocter.com

**David Michael Young**

Goodwin Procter LLP (DC)  
901 New York Ave NW  
9th Fl East  
Washington, DC 20001  
(202) 346-4000  
(202) 346-4444 (fax)  
dyoung@goodwinprocter.com

*Counsel for Defendant Teva Pharmaceuticals USA, Inc.*

To the best of my knowledge, there are no attorneys who require service by U.S. Mail.

/s/

---

Brett A. Spain  
(VSB No. 44567)  
*Counsel for Pfizer Inc., Pfizer Limited and  
Pfizer Ireland Pharmaceuticals*  
WILLCOX & SAVAGE, P.C.  
One Commercial Place, Suite 1800  
Norfolk, Virginia 23510  
Telephone: (757) 628-5534  
Facsimile: (757) 628-5566  
bspain@wilsav.com